

EXHIBIT E

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

HERMÈS INTERNATIONAL and
HERMÈS OF PARIS, INC.,

Plaintiffs,

v.

MASON ROTHSCHILD,

Defendant.

CASE NO. 1:22-cv-00384-JSR

**EXPERT REPORT SUBMITTED BY
DR. BRUCE ISAACSON MEASURING THE
LIKELIHOOD OF CONFUSION BETWEEN
METABIRKINS AND BIRKIN HANDBAGS**

1 7. My surveys measured likelihood of confusion relative to the MetaBirkins webpage,
2 which is located at www.metabirkins.com. This webpage advertises MetaBirkins NFTs, shows
3 pictures and text relating to the NFTs, and provides links to online marketplaces where
4 consumers can purchase the NFTs.¹⁵ My surveys showed this webpage to respondents and
5 then asked questions to measure the likelihood of confusion with Hermès and Birkin handbags.

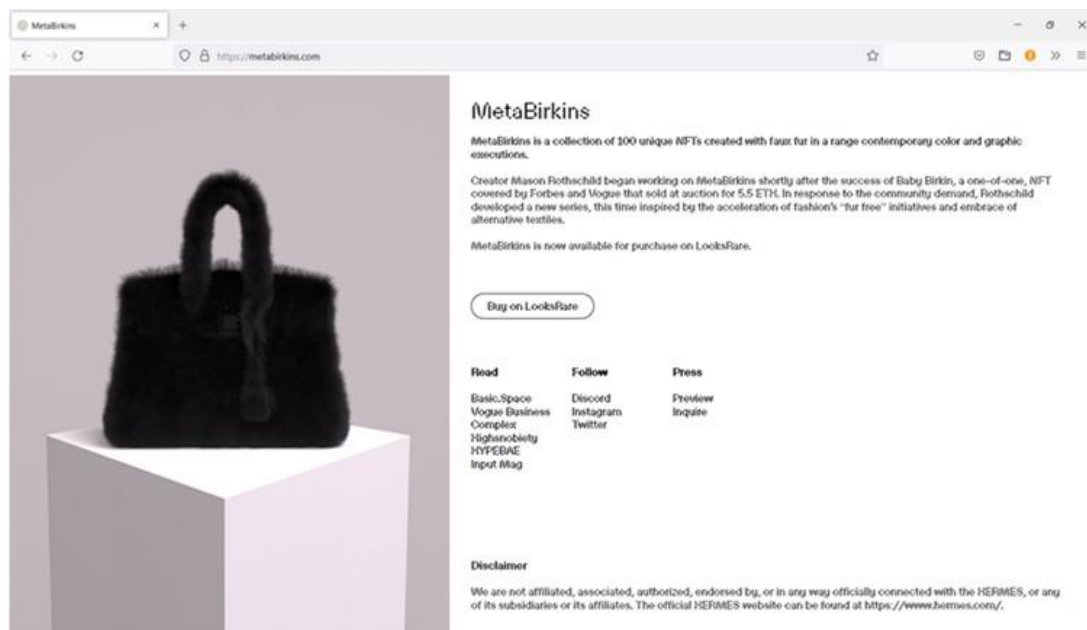
6 8. The surveys measured two versions of the MetaBirkins webpage. The “test version”
7 measured the MetaBirkins webpage as consumers would encounter this page in the real world.
8 Figure 1 below shows the test webpage, which prominently displays images of 17 MetaBirkins
9 handbags and also describes the MetaBirkins NFTs.

10 9. The surveys measured the webpage in a desktop format, which showed the webpage as
11 a consumer would see it on a device such as a desktop or laptop computer, and a mobile
12 version, which showed the webpage as a consumer would see it on a device such as a cell
13 phone.

14 10. Figure 1 shows the desktop format of the MetaBirkins webpage. In this format, when a
15 user scrolls over a MetaBirkins handbag, words appear superimposed over the handbag in a
16 manner that reads “NOT YOUR MOTHER’S BIRKIN” across each row of handbags. My surveys
17 replicated this feature. Figure 2 shows MetaBirkins handbags from the webpage, with and
18 without these words superimposed over the handbags. Exhibit 2 shows the test webpage and
19 test handbags displayed in the surveys, in both desktop and mobile versions.
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28 ¹⁵ Amended Complaint, ¶¶ 6, 18, 24.

Figure 1:
Test Version of the MetaBirkins Webpage Measured in the Confusion Surveys (1 of 2)¹⁶



¹⁶ Due to space constraints, the MetaBirkins webpage is reproduced across multiple pages of this report. In the actual surveys, consumers saw the webpage as a single image, in a size and format similar to what they would encounter in the real world.

Figure 1:
Test Version of the MetaBirkins Webpage Measured in the Confusion Surveys (2 of 2)



Figure 2:
Examples of Test Versions of MetaBirkins Handbags
With and Without Superimposed Words (1 of 2)



Figure 2:
Examples of Test Versions of MetaBirkins Handbags
With and Without Superimposed Words (2 of 2)

